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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,099	03/27/2001	Jan G.J. van de Winkel	MXI-170	2545
59819	7590	10/12/2006		
LAHIVE & COCKFIELD, LLP MEDAREX, INC. 28 STATE STREET BOSTON, MA 02109			EXAMINER BLANCHARD, DAVID J	
			ART UNIT 1643	PAPER NUMBER

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

18

Advisory Action Before the Filing of an Appeal Brief

Application No.

09/820,099

Applicant(s)

VAN DE WINKEL, JAN G.J.

Examiner

David J. Blanchard

Art Unit

1643

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1, 6-12 and 25-33.
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.


REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

Continuation of 3. NOTE: Entry of applicants' amendment filed 9/11/2006 would raise new issue, requiring new considerations, new search and new rejections. For example, as presently amended, claim 1 recites that the monomeric IgA and the agent are linked by chemical conjugation or ex vivo recombinant genetic fusion, which introduces new matter into the claims. At page 7 of the reply applicant points to various page and line numbers for support of the limitation of "ex vivo recombinant genetic fusion", however, none of these page or line numbers provide adequate written support for the "ex vivo" recombinant genetic fusion presently claimed. Pages 3, 4, 8, 14 and original claim 3 as pointed to merely disclose what the claimed complex comprises. Page 13 as pointed to by applicant discloses the expression of a single recombinant fusion construct, however, there is insufficient written support for the "ex vivo" limitation of the present claims. Applicant is required to provide sufficient written support for the limitations recited in present claim 1 in the specification or claims, as-filed, or remove these limitations from the claims in response to this Office Action.

Continuation of 5. Applicant's reply has overcome the following rejection(s): If, if, if entered, the reply filed 9/11/2006 would appear to overcome the following objections/rejections: the objection to the specification as introducing new matter, and other minor informalities in the specification; the rejection of claims 1, 6, 8 and 11-12 under 35 U.S.C. 102(b) as being anticipated by Mannhalter et al; the rejection of claims 1, 6, 8-11, 26-27 and 29-32 under 35 U.S.C. 102(b) as being anticipated by van Spriel et al as evidenced by Van Egmond et al; the rejection of claims 1, 6-12 and 26-33 under 35 U.S.C. 102(e) as being anticipated by Deo et al as evidenced by Van Egmond and the rejection of claims 25-33 under 35 U.S.C. 112, first paragraph as introducing new matter in view of the cancellation of the claims.

Respectfully,
David J. Blanchard
571-272-0827



LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER